

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA BOARD OF DENTISTRY

In the Matter of
Gary L. Jacobson, D.D.S.
License No. D6977

RULING REGARDING
RESPONDENT'S MOTION FOR
CONTINUANCE OF THE
PREHEARING CONFERENCE

The above matter is pending before the undersigned Administrative Law Judge pursuant to a Notice of and Order for Hearing dated September 15, 1995. Thomas C. Vasaly, Assistant Attorney General, 525 Park Street, Suite 500, St. Paul, Minnesota 55103-2106, has appeared on behalf of the Complaint Committee of the Minnesota Board of Dentistry (hereinafter referred to as "the Committee"). Ronald S. Rosenbaum, Attorney at Law, Tilton & Rosenbaum, 101 East Fifth Street, Suite 2220, St. Paul, Minnesota 55101, has appeared on behalf of the Respondent, Dr. Gary L. Jacobson.

On December 14, 1995, the Respondent filed a motion in which he sought a continuance of the prehearing conference currently scheduled for January 17, 1996, until Wednesday, July 17, 1996. The Committee filed a response in opposition to the motion on December 27, 1995, and the Respondent filed a reply on December 29, 1995. The record with respect to the motion closed on December 29.

Based upon all of the files, records, and proceedings herein, and for the reasons discussed in the Memorandum below, IT IS HEREBY ORDERED that the Respondent's motion to continue the prehearing conference is DENIED.

Dated this 2nd day of January, 1996.

/s/ Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

MEMORANDUM

At the prehearing conference held in this matter on October 27, 1995, the Respondent requested that he be allowed 90 days to examine documents to be provided by the Committee (with the assistance of his experts) prior to establishing discovery, motion, and hearing schedules. The Administrative Law Judge granted the Respondent's request and scheduled a prehearing conference for January 17, 1996. The Respondent has now filed a motion seeking an additional continuance of the prehearing conference for

approximately six months in order to permit the Respondent additional time to review the more than 3,500 pages of discovery documents that the Committee has provided to him. The Respondent alleges that counsel for the Committee misled him during the October 27 prehearing conference regarding the quantity of documents that were to be provided to the Respondent and their organization. The Committee has opposed the requested continuance of the prehearing conference on the grounds that counsel for the Committee in fact provided a fairly accurate estimate at the October 27 prehearing conference of the size of the stack of documents that would be produced, there were no deficiencies in the Committee's document production, and it is advantageous to establish a scheduling order as soon as practicable.

The Administrative Law Judge is not convinced that the Committee intentionally misrepresented the nature or quantity of the documents to be provided to the Respondent or that it otherwise would be appropriate to delay the prehearing conference scheduled for January 17, 1996. At the Respondent's request, he has already been provided a 90-day delay in the scheduling discussions that normally occur at the initial prehearing conference. Pursuant to the rules of the Office of Administrative Hearings, "[a] prehearing conference shall be an informal proceeding conducted expeditiously by the Judge." Minn. Rule 1400.6500, subp. 2 (1993) (emphasis added). It is important to establish deadlines for the completion of discovery and schedule hearing dates at this stage of the proceeding, in order to guide the parties' discovery efforts, reserve hearing dates on counsel's schedules, and ensure that the case proceeds in an efficient fashion. The need for an early scheduling order is particularly evident in complex cases such as this, in order to prevent the matter from becoming unnecessarily protracted. The Respondent's lack of familiarity with each and every document provided by the Committee should not preclude him from being able to assist the Administrative Law Judge in establishing an appropriate schedule for the case.

Accordingly, counsel for the Committee and the Respondent should appear at the January 17, 1996, prehearing conference prepared to recommend a specific discovery schedule and a hearing date.

BLN